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LRB095 08568 KBJ 33777 a

1 AMENDMENT TO HOUSE BILL 1555

2 AMENDMENT NO. \_\_\_\_\_. Amend House Bill 1555 by replacing  
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Insurance Code is amended by  
5 changing Sections 512.52, 512.53, 512.55, 512.57, 512.58,  
6 512.59, 512.60, 512.61, and 512.64 as follows:

7 (215 ILCS 5/512.52) (from Ch. 73, par. 1065.59-52)

8 Sec. 512.52. Definitions. As used in this Article unless  
9 the context clearly otherwise requires:

10 (a) "Adjusting insurance claims" means representing an  
11 insured with an insurer for compensation, and while  
12 representing that insured either negotiating values, damages,  
13 or depreciation, or applying the loss circumstances to  
14 insurance policy provisions.

15 (b) "Public Insurance Adjuster" means a person engaged in  
16 the business of adjusting insurance claims who is licensed

1 pursuant to this Article.

2 (c) "Registered Firm" means a person registered with the  
3 Director under Section 512.57.

4 (d) "Compensation" shall include, but need not be limited  
5 to, the following:

6 1. any assignment of insurance proceeds or a percentage  
7 thereof;

8 2. any agreement to make repairs for the amount of the  
9 insurance proceeds payable;

10 3. assertion of any lien against insurance proceeds  
11 payable.

12 (e) "Person" embraces both natural persons and business  
13 entities of whatever type.

14 (Source: P.A. 84-335; 84-832.)

15 (215 ILCS 5/512.53) (from Ch. 73, par. 1065.59-53)

16 Sec. 512.53. License Required. (a) No person may engage in  
17 the business of adjusting insurance claims, nor advertise,  
18 solicit or hold himself out to be in the business of adjusting  
19 insurance claims, solicit or hold himself out to be a Public  
20 Insurance Adjuster, nor attempt to obtain a contract for Public  
21 Adjusting services, unless licensed or registered in  
22 accordance with the provisions of this Article, except that the  
23 provisions of this paragraph do not apply to a person admitted  
24 to the practice of law in this State, to a licensed agent  
25 adjusting loss or damage under a policy within his control or

1 to a marine surveyor or average adjuster.

2 (b) In addition to any other penalty set forth in this  
3 Article, any person violating paragraph (a) of this Section  
4 shall be guilty of a Class A misdemeanor, and any person  
5 misappropriating or converting any monies collected as a Public  
6 Insurance Adjuster, whether licensed or not, shall be guilty of  
7 a Class 4 felony.

8 (c) All contracts entered into by any person violating  
9 subsection (a) of this Section are void and invalid.

10 (Source: P.A. 83-1362.)

11 (215 ILCS 5/512.55) (from Ch. 73, par. 1065.59-55)

12 Sec. 512.55. Public Insurance Adjuster license. (a) The  
13 Director shall issue a Public Insurance Adjuster license to an  
14 applicant who has:

15 (1) met the requirements of Section 512.54; and

16 (2) paid the fee as set forth in Section 512.63; and

17 (3) filed with the Director a bond as prescribed in Section  
18 512.56.

19 (b) Every Public Insurance Adjuster license shall remain in  
20 effect for one year from the date of its issuance.

21 (c) Each Public Insurance Adjuster license shall contain  
22 the name, business address, resident address and personal  
23 identification number of the Public Insurance Adjuster, the  
24 date of issue, general conditions relative to expiration or  
25 termination and any other information the Director considers

1 proper.

2 (d) The holder of a Public Insurance Adjuster license shall  
3 notify the Director, in writing, of a change of either business  
4 or residence address within 30 days of such change.

5 (e) Each Public Insurance Adjuster license shall remain in  
6 effect as long as the holder of the license maintains in force  
7 and effect the bond required by Section 512.56 and pays the  
8 annual fee required by Section 512.63 by the date due as  
9 prescribed by the Director, unless the license is revoked or  
10 suspended pursuant to Section 512.61.

11 The Department may refuse to issue or may suspend the  
12 license of any person who fails to file a return, or to pay the  
13 tax, penalty or interest shown in a filed return, or to pay any  
14 final assessment of tax, penalty or interest, as required by  
15 any tax Act administered by the Illinois Department of Revenue,  
16 until such time as the requirements of any such tax Act are  
17 satisfied.

18 (Source: P.A. 84-221; 84-832.)

19 (215 ILCS 5/512.57) (from Ch. 73, par. 1065.59-57)

20 Sec. 512.57. Registered Firms. (a) No person shall ~~may~~  
21 engage in the business of adjusting insurance claims ~~employ one~~  
22 ~~or more Public Insurance Adjusters in their professional~~  
23 ~~capacity, other than for the purpose of using their~~  
24 ~~professional services to negotiate or adjust such person's own~~  
25 ~~losses and insurance claims,~~ unless such person is licensed

1 pursuant to this Article and registered with the Director under  
2 subsection (b) of this Section.

3 No Public Insurance Adjuster may form or participate in any  
4 association, partnership or other business entity ~~with any~~  
5 ~~other Public Insurance Adjuster~~ for the purpose of engaging in  
6 the business of adjusting insurance claims, unless such  
7 business entity is registered with the Director under  
8 subsection (b) of this Section.

9 (b) To become a Registered Firm, a person must submit to  
10 the Director an application, on a form specified by the  
11 Director, and the fee required by Section 512.63. The Director  
12 may require any documents reasonably necessary to verify the  
13 information contained in the application.

14 (c) Each Registered Firm must notify the Director, in  
15 writing, of any change in its business or residence address  
16 within 30 days of such change.

17 (d) Each Registered Firm must notify the Director of each  
18 Public Insurance Adjuster who is a member, officer, director or  
19 employee of the Registered Firm, and report any changes in such  
20 status of any such Public Insurance Adjuster to the Director  
21 within 30 days thereof.

22 (e) Each Registered Firm shall appoint one or more Public  
23 Insurance Adjusters who is an officer, director or member of  
24 the Firm to be responsible for the compliance of the Registered  
25 Firm with the laws of this State and the rules and regulations  
26 of the Director. The Registered Firm shall be responsible for

1 the actions of its officers, directors, members and employees.

2 (f) Each Registered Firm which, for any of the causes  
3 listed in Section 512.61, terminates its relationship with a  
4 Public Insurance Adjuster who is an officer, director, employee  
5 or member of the Registered Firm shall notify the Director, in  
6 writing, within 30 days of such termination of the specific  
7 reasons for such termination. The Registered Firm shall provide  
8 the Director with information, documents, records or  
9 statements pertaining to the termination. Any materials  
10 provided may be used by the Director in any action taken  
11 pursuant to Section 512.62. There shall be no liability on the  
12 part of, nor any cause of action against, the Director or the  
13 Registered Firm, or any authorized representative of either,  
14 for any statement made or materials provided pursuant to this  
15 paragraph.

16 (g) The Director shall terminate any registration which  
17 does not comply with the requirements of this Article.

18 (h) A registered firm may only be comprised of licensed  
19 Public Insurance Adjusters. All shareholders, officers, and  
20 directors of registered firms must be licensed pursuant to this  
21 Act. Any Public Insurance Adjuster who has a license that has  
22 been revoked, suspended, or not renewed, whether voluntarily or  
23 not, must withdraw from a registered firm within 30 days and  
24 give written notice of his or her resignation to the licensed  
25 firm within 30 days.

26 (Source: P.A. 84-832.)

1 (215 ILCS 5/512.58) (from Ch. 73, par. 1065.59-58)

2 Sec. 512.58. Rate Schedules and Contract Forms. (a) A  
3 Public Insurance Adjuster shall not provide services until a  
4 written contract with the insured has been executed, on a form  
5 filed with and approved by the Director. At the option of the  
6 insured, any such contract which is executed within 5 business  
7 days after conclusion of the loss-producing occurrence shall be  
8 voidable for 10 days after execution. The insured may void the  
9 contract by notifying the Public Insurance Adjuster in writing  
10 by (i) registered or certified mail, return receipt requested,  
11 to the address shown on the contract; or (ii) personally  
12 serving the notice on the Public Insurance Adjuster.

13 (b) The written contract required by paragraph (a) shall  
14 constitute the entire agreement between the Public Insurance  
15 Adjuster and the insured. A copy of the contract shall be given  
16 to the insured when the contract is executed. Such contract  
17 forms may not include any hold harmless agreement which  
18 provides indemnification to the Public Insurance Adjuster by  
19 the insured for liability resulting from the Public Insurance  
20 Adjuster's negligence, nor any power-of-attorney by which the  
21 Public Insurance Adjuster can act in the place and instead of  
22 the insured.

23 (Source: P.A. 83-1362.)

24 (215 ILCS 5/512.59) (from Ch. 73, par. 1065.59-59)

1           Sec. 512.59. Performance standards applicable to all  
2 Public Insurance Adjusters.

3           (a) A Public Insurance Adjuster shall ~~may~~ not represent  
4 that he is a representative of an insurance company, a fire  
5 department, or the State of Illinois, or that he is a fire  
6 investigator, or that his services are required for the insured  
7 to submit a claim to the insured's insurance company, or that  
8 he may provide legal advice or representation to the insured. A  
9 Public Insurance Adjuster may represent that he has been  
10 licensed by the State of Illinois.

11           (b) A Public Insurance Adjuster shall ~~may~~ not agree to any  
12 loss settlement without the insured's knowledge and consent and  
13 shall provide the insured with a document setting forth the  
14 scope, amount, and value of the damages prior to requesting the  
15 insured for authority to settling any loss.

16           (c) If the Public Insurance Adjuster refers the insured to  
17 a contractor, the Public Insurance Adjuster warrants that all  
18 work will be performed in a workmanlike manner and conform to  
19 all statutes, ordinances and codes. Should the work not be  
20 completed in a workmanlike manner, the Public Insurance  
21 Adjuster shall be responsible for any and all costs and expense  
22 required to complete or repair the work in a workmanlike  
23 manner.

24           (d) In all cases where the loss giving rise to the claim  
25 for which the Public Insurance Adjuster was retained arise from  
26 damage to a personal residence, the insurance proceeds shall be

1 delivered in person to the named insured or his or her  
2 designee. Where proceeds paid by an insurance company are paid  
3 jointly to the insured and the Public Insurance Adjuster, the  
4 insured ~~Public Insurance Adjuster~~ shall release such portion of  
5 the proceeds which are due the Public Insurance Adjuster  
6 ~~insured~~ within 30 calendar days after the insured's ~~Public~~  
7 ~~Insurance Adjuster's~~ receipt of the insurance company's check,  
8 money order, draft, or release of funds. If the proceeds are  
9 not so released to the insured within 30 calendar days, the  
10 insured ~~Public Insurance Adjuster~~ shall provide the Public  
11 Insurance Adjuster ~~insured and the Illinois Department of~~  
12 ~~Insurance~~ with a written explanation of the reason for the  
13 delay.

14 (e) A Public Insurance Adjuster may not propose or attempt  
15 to propose to any person that the Public Insurance Adjuster  
16 represent that person while a loss-producing occurrence is  
17 continuing nor while the fire department or its representatives  
18 are engaged at the damaged premises nor between the hours of  
19 7:00 p.m. and 8:00 a.m..

20 (f) A Public Insurance Adjuster shall ~~may~~ not advance money  
21 or any valuable consideration, ~~except emergency services or the~~  
22 ~~commencement of repairs,~~ to an insured pending adjustment of a  
23 claim.

24 (g) A Public Insurance Adjuster shall ~~may~~ not provide legal  
25 advice or representation to the insured, or engage in the  
26 unauthorized practice of law.

1

2 (Source: P.A. 84-335.)

3 (215 ILCS 5/512.60) (from Ch. 73, par. 1065.59-60)

4 Sec. 512.60. Maintenance of records. (a) All Public  
5 Insurance Adjusters shall maintain a complete record of each of  
6 their transactions as a Public Insurance Adjuster. The records  
7 required by this Section shall include:

8 (1) name of the insured;

9 (2) date, location and amount of loss;

10 (3) copy of the contract between the Public Insurance  
11 Adjuster and insured;

12 (4) name of the insurer, amount, expiration date and number  
13 of each policy carried with respect to the loss;

14 (5) itemized statement of the insured's recoveries;

15 (6) name of the Public Insurance Adjuster who executed the  
16 contract; ~~and~~

17 (7) name of the attorney representing the insured, if  
18 applicable, and the name of the representative of the insurance  
19 company; and -

20 (8) copy of the statement provided to the insured  
21 explaining the amount and value of the damages to the insured  
22 premises, the amount of insurance proceeds recovered from the  
23 insured, and the amount and values of all expenses incurred to  
24 adjust the claim and the amount and value of the Public  
25 Insurance Adjuster's fees and charges.

1 (b) Records shall be maintained for at least three years  
2 after the termination of the transaction with an insured and  
3 shall be open to examination by the Director at any time.

4 (c) A Public Insurance Adjuster shall not divulge  
5 information regarding any insured without written consent from  
6 the insured, except that the Public Insurance Adjuster may  
7 divulge such information to an insurance company or its  
8 representative which insures the insured, to the Department of  
9 Insurance, or upon a court order or an Internal Revenue Service  
10 subpoena.

11 (d) Where a Public Insurance Adjuster is engaged or  
12 employed by a Registered Firm, the records required by this  
13 Section may be maintained by such Registered Firm on behalf of  
14 the Public Insurance Adjuster.

15 (Source: P.A. 84-335.)

16 (215 ILCS 5/512.61) (from Ch. 73, par. 1065.59-61)

17 Sec. 512.61. License suspension, revocation or denial. (a)  
18 Any license issued under this Article may, ~~after notice to the~~  
19 ~~licensee and hearing as provided by Section 402,~~ be suspended  
20 or revoked, and any application for a license may be denied, if  
21 the Director finds that the holder of or applicant for a  
22 license has:

23 (1) willfully violated any provision of this Code or any  
24 rule or regulation promulgated by the Director; or

25 (2) intentionally made a material misstatement in an

1 application for a license as a Public Insurance Adjuster; or

2 (3) obtained or attempted to obtain a license as a Public  
3 Insurance Adjuster through misrepresentation or fraud; or

4 (4) misappropriated, converted to his own use or improperly  
5 withheld money due others; or

6 (5) intentionally misrepresented the terms of any  
7 insurance policy; or

8 (6) used fraudulent, coercive or dishonest practices, or  
9 demonstrated incompetence, untrustworthiness or financial  
10 irresponsibility in the transaction of business as a Public  
11 Insurance Adjuster; or

12 (7) been convicted of any ~~a~~ felony or misdemeanor involving  
13 dishonesty or fraud, unless the individual demonstrates to the  
14 Director sufficient rehabilitation to warrant the public  
15 trust; or

16 (8) knowingly transacted the business of a Public Insurance  
17 Adjuster in conjunction with an individual who was not licensed  
18 at the time; or

19 (9) failed to appear without reasonable cause or excuse in  
20 response to a subpoena lawfully issued by the Director; or

21 (10) a license as a Public Insurance Adjuster suspended or  
22 revoked or an application denied in any other state, district,  
23 territory or province on a ground similar to one of the grounds  
24 stated in this Section; or

25 (11) failed to comply with or violated any of the standards  
26 set forth in Section 512.59; or

1 (12) failed to maintain the records required by Section  
2 512.60; or

3 (13) engaged in the unauthorized practice of law.

4 (b) Revocation, suspension, or the denial ~~Denial~~ of an  
5 application pursuant to this Section shall be by written notice  
6 served upon the applicant by certified or registered mail sent  
7 to the address specified in the application. The applicant may  
8 request a hearing in writing within 30 days from the date of  
9 mailing as provided in Section 402. The hearing shall be held  
10 pursuant to Section 2402 of Title 50 of the Code.

11 (c) Upon notification of the issuance of an order  
12 suspending or revoking a Public Insurance Adjuster's license,  
13 the licensee or other person having possession or custody of  
14 such license shall promptly deliver it to the Director in  
15 person or by mail. The Director shall publish the name of each  
16 Public Insurance Adjuster whose license is suspended or  
17 revoked, after such suspension or revocation becomes final, in  
18 a manner designed to notify interested insurance companies and  
19 other persons.

20 (d) Any individual whose Public Insurance Adjuster's  
21 license is revoked or whose application is denied pursuant to  
22 this Section shall be ineligible to apply for a Public  
23 Insurance Adjuster's license for 5 ~~2~~ years. A suspension  
24 pursuant to this Section may be for any period of time up to 5 ~~2~~  
25 years.

26 (Source: P.A. 84-335; 84-832.)

1 (215 ILCS 5/512.64) (from Ch. 73, par. 1065.59-64)

2 Sec. 512.64. Injunctive Relief. Any person who acts as or  
3 holds himself out to be either engaged in the business of  
4 adjusting insurance claims or a Public Insurance Adjuster  
5 without holding a valid and current Public Insurance Adjuster's  
6 license ~~to do so~~ is hereby declared to be inimical to the  
7 public welfare and to constitute a public nuisance. The  
8 Director may report such practice to the Attorney General of  
9 the State of Illinois, whose duty it is to apply forthwith by  
10 complaint on relation of the Director in the name of the people  
11 of the State of Illinois, as plaintiff, for injunctive relief  
12 in the circuit court of the county where such practice occurred  
13 to enjoin such person from engaging in such practice; and, upon  
14 the filing of a verified petition in such court, the court, if  
15 satisfied by affidavit or otherwise that such person has been  
16 engaged in such practice without a valid and current license to  
17 do so, may enter a temporary restraining order without notice  
18 or bond, enjoining the defendant from such further practice. A  
19 copy of the verified complaint shall be served upon the  
20 defendant and the proceedings shall thereafter be conducted as  
21 in other civil cases. If it is established that the defendant  
22 has been or is engaged in such unlawful practice, the court may  
23 enter an order or judgment perpetually enjoining the defendant  
24 from further such practice. In all proceedings hereunder the  
25 court, in its discretion, may apportion the costs among the

1 parties interested in the action, including cost of filing the  
2 complaint, service of process, witness fees and expenses, court  
3 reporter charges and reasonable attorney fees. In case of  
4 violation of any injunctive order entered under the provisions  
5 of this Section, the court may try and punish the offender for  
6 contempt of court. Such injunction proceedings shall be in  
7 addition to, and not in lieu of, all penalties and other  
8 remedies.

9 (Source: P.A. 84-548.)".